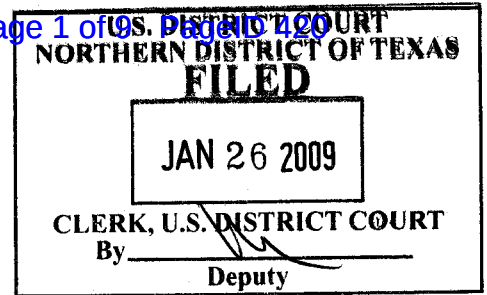


ORIGINAL

Glenn Winningham; house of Fearn
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United States Court of Appeals

For the Fifth Circuit

Glenn Winningham; house of Fearn

Demandant

v

THE CROWN, et al,

Respondents

Case #

3:08 CV 1204G

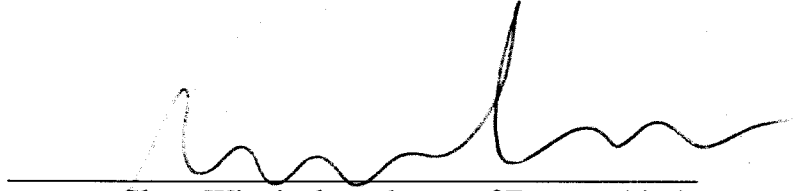
MOTION
 TO PROCEED WITHOUT
 PAYMENT OF FEES
 OR COSTS

I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, a sovereign living soul, a holder of the office of "the people", and an inhabitant of the land of Texas, hereby DEMAND that this Court file the attached Appeal without the prepayment of fees and costs and to proceed without the payment of any fees or costs as found in the attached affidavit which is attached hereto, and incorporated herein by reference in its entirety.

I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, the Demandant, has previously been granted leave to proceed in this manner in the Arizona Superior Court, Pinal County, on several occasions and in the United States Supreme Court in case number 07-5674, therefore it is *stare decisis*, and this court has no choice but to let the case proceed.

All of the above is submitted "UNDER PENALTIES with PERJURY" (28 USC § 1746(1)), without the UNITED STATES.

Signed, Sealed, and Dated, on the land this 16TH day of January, two thousand and nine.

A handwritten signature in black ink, appearing to read 'Glenn Winningham', written over a horizontal line.

Glenn Winningham; house of Fearn, sui juris
Sovereign living soul, holder of the office of "the people"
Inhabitant of the land of Texas
with a postal address of;
Non-Domestic
C/O 6340 Lake Worth Blvd., #437
Fort, Worth, Texas

AFFIDAVIT

COMES NOW, I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, a sovereign living soul, a holder of the office of "the people", and an inhabitant of the land of Texas, with this solemn asservation to the court for Me to proceed with My PETITION without having to prepay any fees/costs, give any sureties or be compelled to fill out any ritualistic forms under Fifth Article in Amendment Due Process of Law clause of the Constitution for these united States of America, Title 28 United States Code, and pursuant to My right as one of "the people" to Petition the government for a redress of My grievances as affirmed in the First Article in Amendment to the Constitution for the united States of America where it says;

"Congress shall make no law abridging the right of the people.... to petition the government for a redress of grievances."

1. It should be noted that I am a beneficiary of the trusts which were established by the Articles of Confederation (1781), and the Constitution for the united States of America (1787), and all officers of this Court are fiduciaries of those trusts.
2. If Congress shall make no laws abridging the right of the people to Petition the government for a redress of their grievances, then it would be equally wrong for the Courts to make regulations (fees), which operate to do the same thing. Furthermore, for the Courts to charge a fee for "we the people" to file a petition, it would be converting a right into a privilege, because filing fees are really a tax and are sometimes referred to as such by the Courts, and I have not agreed this tax.
3. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, am not a "person" because a person is:
 - a) **"a variety of entities other than human beings." Church of Scientology v U.S. Department of Justice, 612 F2d 417 (1979) at pg 418**
 - b) **"...foreigners, not citizens...." United States v Otherson, 480 F. Supp. 1369 (1979) at pg 1373.**
 - c) **the words "person" and "whoever" include corporations, companies, associations, firms, partnerships, societies, and joint stock companies...**

Title 1 U.S.C. Chapter 1 – Rules of Construction, Section 1

and a sovereign living soul is not a "person" because;

- c) " 'in common usage, the term 'person' does not include the sovereign, [and] statutes employing the [word] are normally construed to exclude it.' *Wilson v Omaha Tribe*, 442 US 653 667, 61 L Ed 2d 153, 99 S Ct 2529 (1979) (quoting *United States v Cooper Corp.* 312 US 600, 604, 85 L Ed 1071, 61 S Ct 742 (1941). See also *United States v Mine Workers*, 330 US 258, 275, 91 L Ed 884, 67 S Ct 677 (1947)" *Will v Michigan State Police*, 491 US 58, 105 L. Ed. 2d 45, 109 S.Ct. 2304
- e) "a sovereign is not a person in a legal sense" *In re Fox*, 52 N. Y. 535, 11 Am. Rep. 751; *U.S. v. Fox*, 94 U.S. 315, 24 L. Ed. 192

and I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, am not an "employee" because an employee; " is a person. . . . " Black's Law Dictionary, 5th Edition, and since I am not an "employee", then it also holds true that I do not have an "employer". I am not saying that I don't get compensation for labor because I do get compensation for labor, which is a common right, and not a taxable event.

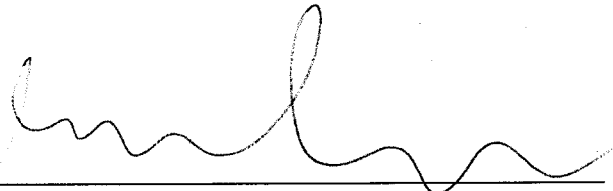
4. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, do not receive "wages" according to the following definitions:

Federal Register, Tuesday, September 7, 1943, 404, 104 pg 12267: Employee: "The term employee specifically includes officer and employees whether elected or appointed of the United States, a State, territory, or a political subdivision thereof or the District of Columbia or any agency or instrumentality or any one or more of the foregoing."

26 USC 3401 (c) EMPLOYEE. "For purposes of this chapter, [Chapter 24, Collection of Income Tax at Source on Wages], The term employee includes an officer, employee or elected official of the United States, a State or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality or one or more of the foregoing. The term employee also includes an officer of a corporation."

3401(a) WAGES. For the purposes of this chapter, [Chapter 24, Collection of Income Tax at Source on Wages], the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee [of the United States, a State or any political subdivision thereof, or the District of Columbia or any agency or instrumentality of any of the foregoing or an officer of a corporation...."

Date: 16 JAN 09



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5. Furthermore, I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, have never received any **"income"**. According to U.S. v Ballard, 535 F. 2d 400, 404, the word **"income"** has not been defined in Title 26, Internal Revenue Code. The definition, therefore is limited to the meaning of the word at the time it was enacted. In Merchant's Loan & Trust Company v Smietanka, 255 U.S. 509 at pgs 518, 519 (1921), the Supreme Court held,

There would seem to be no room to doubt that the word (income) must be given the same meaning in all Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act and what meaning is has now become definitely settled by decisions of the court.

That definition of income was clearly given in 1918 in the Supreme Court decision of Doyle vs. Mitchell, 247 U.S. 179, at pg 185;

"Whatever difficulty there may be about a precise and scientific definition of 'income,' it imports, as used here [in the Internal Revenue Code]the idea of gain or increase arising from corporate activities...." We must reject in this case... the broad contention submitted in behalf of the Government that all receipts, everything that comes in -- are income within the proper definition of the term 'gross income'.

The Supreme Court in Eisner v Macomber, 252 U.S. 189 ruled:

"...it becomes essential to distinguish between what is and what is not "income," according to truth and substance without regard to form. Congress cannot, by any definition it may adopt, conclude the matter, since it cannot by legislation, alter the Constitution, from which it derives its power to legislate, and which within those limitations alone, that power can be unlawfully exercised... [Income is] Derived -- from -- capital -- the -- gain -- derived - - from -- capital, etc. Here we have the essential matter -- not gain accruing to capital, not a growth or increment of value in the investment; but a gain, a profit, something of exchangeable value ... severed from the capital however invested or employed, and coming in, being "derived," that is received or drawn by the recipient for his separate use, benefit and disposal -- that is the income derived from property. Nothing else answers the description...."

The emphasis was in the original, and therefore, income is corporate profits, and as a sovereign living soul, I am not, a US citizen, 14th Amendment citizen, corporation, or other fictitious entity, therefore, I have no income.

6. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, do not have any assets. Persons and corporations have assets and I am neither. Assets are listed on a balance

sheet, which shows assets and liabilities for accounting purposes for a corporation. The same holds true for income and expenses, which are also for corporations, and are part of bookkeeping by accountants where they show income versus expenses for the corporation. I am not saying I do not have property, because I do have property, but the property I have is not an asset, and I have no income or expenses because I am not a US Citizen, 14th Amendment citizen, corporation, or other fictitious entity as defined by your current and FRAUDULENT Fourteenth Amendment.

7. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, am not a US citizen, 14th Amendment citizen, corporation, or other fictitious entity, but I am a sovereign living soul as described in the Petition. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, am not a vessel of any kind, or a knowing, willing, intentional surety or accommodation party for any entity.

One sovereign does not need to tell another sovereign that they are sovereign, they is sovereign by their very existence. "The rule in America is that the American people are the sovereigns, and in them is lodged all power, and the agencies of government possess no authority save that which is delegated to them by the people in the written compact entered into between the people, which is styled the 'Constitution,' and the laws adopted by the representatives of the people.....consistent therewith." Kemper v. State, 138 Southwest 1025 (1911), page 1043.

8. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, do not have firsthand knowledge of the day I was given birth, therefore, any mention of any birthday would be hearsay and inadmissible as evidence in Court. I can only say what I have heard, which is hearsay, which is that I was born of a woman on or about the year 1957 on the land of North America, and no commercial transactions were involved. No vessel was created.

9. I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn, do not have a Social Security Number. Only US Citizens, 14th Amendment citizens, vessels and corporations have social security numbers, or any sort of identifying number which is issued by their master, the government. My master is God, and the government is My servant, and all of My servants have an Oath of Office that says they will protect Me.

10. I do not have a spouse, since a spouse is a person, and my wife is not a person either. I am married and have five (5) wonderful children but none of them are persons, and I do not have a spouse. We are all sovereign living souls.

11. I have no "residence", and I do not "reside". I am an inhabitant of the land of Texas. I am not corporation, or other fictitious entity, but I am a sovereign living soul. It was previously decided in the US Supreme Court case 07-5764 when the US Department of (so-called) Justice waived their right to respond, that a US citizen is a 15 USC § 44 unincorporated corporation.

12. It was also previously decided in the US Supreme Court Case 07-5764 that the war of independence never did end, that the War of 1812 was orchestrated to facilitate the disappearance of the true Article Thirteen in Amendment which prohibited any BAR member from holding a position of trust (requiring an oath of office) and revoked their US citizenship, because the only major battle was when the British burned the Capitol and the National Archives. The Crown wanted their BAR members to infiltrate our government, and they have orchestrated a fraudulent Thirteenth Amendment and Fourteenth Amendment, and are still in power today. Therefore, any attempt to impose the status of a US citizen upon Me is giving aid and comfort to the enemy, which is the prosecutable form of TREASON as found in the US Constitution.

13. On the tenth day of January, in the year of our Lord two thousand and eight I sent to Condoleeza Rice, US Secretary of State a US Secretary of State Notice and Demand 012508, a true copy of which, together with proof of service, is attached hereto, and incorporated herein by reference in its entirety, but I remain an American National, and a Texas citizen. I also renounced the US citizen, prior to the US Secretary of State Notice and Demand 012508, in the Petition that I sent to the US Supreme Court in case number 07-5764.

14. Pursuant to HJR 192 dated June 5, 1933, there is no money, and it is against public policy to use money, therefore, no financial institution has any money. The only thing that financial institutions have is credit on account belonging to the people, or non-redeemable federal reserve notes, which are worthless paper, and none of that is money.

15. Therefore, I am not an entity that is subject to any filing fees/taxes.
16. Furthermore, pursuant to HJR 192 dated June 5, 1933, it is against public policy to pay a debt, therefore this Court could not accept payment if it was tendered, and it would be a felony for the Clerk to accept Federal Reserve Notes as a tender in the payment of a debt, therefore, even if I was subject to said taxes/fees, it is impossible to pay the fees/taxes as requested.
17. Furthermore, Congress told the US Supreme Court that they could only hear a Petition for a Writ or Certiorari, therefore, the US Supreme Court is not supreme, and since the US Constitution calls out one Supreme court, it is My One Supreme court, and I hereby ORDER this Court to accept and docket this PETITION without the payment of any fees or taxes.
18. The citation of state and federal statutes within this document is only to notice my servants that which is applicable to them and is not intended, not shall it be construed, to mean that I, Me, My, or Myself, also known as Glenn Winningham; house of Fearn confers, submits to, or has entered into any jurisdiction alluded to thereby.
19. For all of the foregoing reasons, this court should ORDER the Clerk of the Court to file the Petition, and let it proceed without the payment of any fees/taxes.
20. All of this was previously decided in the US Supreme Court case 07-5764, and is now *res judicata*, and *stare decisis*, a true copy of the Motion, Affidavit, Questionnaire, and ORDER of the Court are attached hereto, and incorporated herein by reference in their entirety. This Court has no choice but to let the case proceed.
20. All of which is signed and sealed in red ink on the land of America.

All of the above is respectfully submitted "UNDER PENALTIES with PERJURY" (28 USC § 1746(1)).